

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC	§	
	§	
VS.	§	CIVIL ACTION NO. 6:12-CV-499-LED
	§	(LEAD CASE)
	§	
	§	
TEXAS INSTRUMENTS, INC., ET AL	§	

BLUE SPIKE, LLC	§	
	§	
VS.	§	CIVIL ACTION NO. 6:12-CV-576-LED
	§	(CONSOLIDATED CASE)
	§	
AUDIBLE MAGIC CORPORATION, ET AL	§	

AFFIDAVIT OF VANCE IKEZOYE

I, Vance Ikezoye, declare under penalty of perjury that the following is true and correct:

1. I am Chief Executive Officer at Audible Magic Corp. (“Audible Magic”). I have personal knowledge of the facts set forth in this declaration, or access to Audible Magic corporate information and records allowing me to confirm these facts. I submit this declaration based upon my knowledge of the corporate structure, operations, and customer relationships of Audible Magic. If called as a witness, I could testify competently to these facts under oath.

2. In its Complaint, Plaintiff Blue Spike, LLC (“Blue Spike”) alleges that Audible Magic’s “Live TViD, SmartSync, CopySense, SmartID, Audini and automated content recognition (ACR) digital fingerprint-based software, systems, and technology” purportedly infringe four patents that the complaint states relate generally to the idea of “content recognition.” In this declaration, these are referred to as the “Audible Magic accused products.”

3. In its Complaint, Blue Spike alleges that “each of the defendants’ accused

products and methods use the common and related infringing technologies—Audible Magic’s digital fingerprint based technology for automatic content recognition.” One of the defendants included in Blue Spike’s Complaint is TuneCore, Inc.

4. Blue Spike’s allegations regarding the relationship between TuneCore and Audible Magic are incorrect. TuneCore, Inc. is not a customer for the Audible Magic accused products. TuneCore has not made, used, sold or offered for sale any of the Audible Magic accused products.

5. TuneCore is identified on the “customers” section on Audible Magic’s website in the category of “Content Owners” (<http://audiblemagic.com/customers-contentregistration.php>). TuneCore and the other companies listed in this section of Audible Magic’s website are listed simply to make the very general point that independent content owners (such as those represented by TuneCore) may be interested in Audible Magic’s technology or having music included in Audible Magic’s databases. However, TuneCore is not, in any respect, a customer, user or seller of any Audible Magic accused products. Rather, it is my understanding that TuneCore manages relationships with artists on the one hand and digital content distribution services on the other. The inclusion of TuneCore on this section of Audible Magic’s website does not signify that TuneCore is a customer for any of the Audible Magic accused products, which relate to content recognition. Notably, TuneCore is not identified on the different section of the Audible Magic website relating to Audible Magic’s “Content ID” customers and partners (<http://audiblemagic.com/customers-contentid.php>).

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on June 20, 2013 in Los Gatos, California.


VANCE IKEZOYE